

(1997) 05 AHC CK 0205

Allahabad High Court

Case No: C.M.W.P. No. 20466 of 1997

U.P. State Sugar Corporation
Ltd., Unit Pipraich

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision: May 20, 1997

Acts Referred:

- Constitution of India, 1950 - Article 226
- Uttar Pradesh Industrial Disputes Act, 1947 - Section 3

Citation: (1997) AWC 320 Supp

Hon'ble Judges: R.K. Singh, J; D.S. Sinha, J

Bench: Division Bench

Advocate: G.P. Mathur, for the Appellant;

Judgement

D.S. Sinha, J.

Heard Sri H. S. Nigam, learned Counsel appearing for the Petitioner and Sri Vinay Malaviya, learned standing counsel representing the Respondents No. 1 and 2.

2. By means of this petition, under Article 226 of the Constitution of India, the U.P. State Sugar Corporation Ltd., Unit Pipraich, District Gorakhpur, through the General Manager prays for issuance of a writ of mandamus, order or direction in the nature of mandamus commanding the State of U.P. and Industrial Tribunal (I), Allahabad, besides Diamond Sugar Mills Mazdoor Union, the Respondent No. 3, not to enforce the Notification dated 15th July, 1982, issued by the State of Uttar Pradesh in exercise of power under Clause (b) of Section 3 of the U.P. Industrial Disputes Act, 1947, a copy whereof is Annexure I to the petition.

3. Sri Vinay Malaviya, learned standing counsel representing the State of U.P., invites the attention of the court towards the Uttar Pradesh State Control Over Public Corporation Act, 1975 (U.P. Act No. 41 of 1975) which empowers the State Government to issue direction to every statutory body established or constituted

under any Uttar Pradesh Act, excepting Universities governed by the Uttar Pradesh State Universities Act, 1973, as re-enacted and amended by the Uttar Pradesh Universities (Re-enactment and Amendment) Act, 1974, in relation to the discharge of its functions, and ordains such statutory body to be guided by such directions on the question of policies, as may be given to it by the State Government, notwithstanding that no such power has expressly been conferred on the State Government under the law establishing or constituting such statutory body.

4. It is not disputed before the court that U.P. State Sugar Corporation Ltd., the Petitioner, is a statutory body established under an Act passed by the Uttar Pradesh State Legislature. Thus, as envisaged in U.P. Act No. 41 of 1975, the Petitioner would be bound by a direction issued by the State Government on the question of policy.

5. A Government Order dated 16th January, 1991 has been issued by the State Government to all the departments of the Government of the State of Uttar Pradesh and to the State Corporations requiring them to have the disputes between them and the State of Uttar Pradesh pending in any court disposed of outside the court in consultation with the Judicial department. In view of the Government Order dated 16th January, 1991, the Petitioner is obliged to take steps to have the dispute raised herein resolved outside the court.

6. While deciding the Writ Petition No. 21017 of 1993 connected with Writ Petition No. 4998 of 1993 between Nagar Palika, Almora and Anr. v. Executive Engineer, Electricity Distribution Division, Almora and Ors. 1996 (27) ALR 667, a Division Bench of this Court also issued direction to the Government of Uttar Pradesh to set-up a committee consisting of representatives from the department concerned, department of law and such other representatives as it may deem fit and proper within three months from the date of presentation of certified copy of the order before the Chief Secretary of the Government of U.P. The Bench also directed that every dispute between the State Government and its public undertakings and public undertakings in between themselves shall be referred to the said committee by the Government at the instance of any of the parties to the dispute, within three months from the date such a request is made to it and the said committee shall consider and take a decision after giving reasonable opportunity of being heard to both the parties, as far as possible, within further period of six months. In case it is not possible for the committee to resolve the dispute, it shall give clearance to the contesting parties to take the matter to the appropriate Court or the Tribunal.

7. The Court trusts that by now the State Government must have established the requisite committee in compliance with the direction of this Court, mentioned above. In case requisite committee has not been set-up hitherto, it shall now be done as expeditiously as possible, but not later than three months to be computed from today. Sri Vinay Malaviya, learned standing counsel representing the State of U.P., takes notice of this order and undertakes to communicate the same to the State of U.P. for due compliance.

8. Under the circumstances, it is expedient to direct the Petitioner to approach the State Government for resolution of the dispute raised herein, and it is so directed. Needless to say that the dispute between the parties shall be resolved after affording them reasonable opportunity of hearing. The matter shall be disposed of very expeditiously.

9. Subject to the observations and directions given above, the petition shall stand disposed of finally.